

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Lynn Watson, DeVerl Stokes and Gregory T. Nalder

Confirmation No. 5708

Serial No. 09/715,437

Examiner: Thomas H. Stevens

Filed: November 16, 2000

Group Art Unit: 2121

For: TRANSPORTABLE VOLUME, LOCAL ENVIRONMENT  
REPOSITORY

Date: December 14, 2007

Mail Stop AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Applicant requests review of the final rejection dated September 14, 2007, in the above-identified application. No amendments are being filed with this request.

This request is being filed with a Notice of Appeal.

This review is requested for the reason(s) stated on the attached sheet(s). Note: no more than five (5) pages may be provided.

I am the:

☐

applicant/inventor

☐

assignee of record of the entire interest

See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed)

☒

attorney or agent of record

☐

attorney or agent acting under 37 CFR 1.34

Total of 2 forms are submitted.

**Customer No. 75139**

Respectfully submitted,

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**ARGUMENTS IN SUPPORT OF PRE-APPEAL BRIEF CONFERENCE**

*The Examiner is misinterpreting the term 'connector.'*

The office action mailed November 14, 2007, page 3, with regard to claim 1 states, "...and a connector, operable to allow the memory ("memory tracing", column 11, line 49)." However, either no reference is given to a connector in the Devine reference (US Patent 6,397,242), or the reference to memory tracing is to support the allegation that Devine teaches a connector. In either case, it is respectfully submitted that Devine does not anticipate the claims of the present application.

Claim 1 recites that the system has a memory and "a connector, operable to allow the memory to be disconnected from the first computer and to connect the memory to a host computer different from the first computer."

If there is no reference to support that Devine teaches a connector, then Devine is an improper reference under 35 USC 102(e). Under any of the paragraphs of 35 USC 102, the reference must show each and every element of the claim. Such is a fundamental tenet of the requirements regarding anticipation. See M.P.E.P. § 2131. As Devine does not teach a connector in this interpretation of the Examiner's comments with regard to claim 1, the Devine reference does not teach each and every element of the claims and is therefore an improper reference and claim 1 should be ruled allowable.

In addition, claim 11 recites "disconnecting the memory device from the first computer..." which is also not taught by Devine, similar to the discussion with regard to claim 1. With regard to claim 15, there is no 'emulation device' taught by Devine. Rather, Devine teaches a system that has resident in its memory the various emulators used. There is no separate emulation device that is connected to the host computer.

If the intention of the comment was that the memory tracing discussed in Devine teaches a connector, the Examiner is misinterpreting the term 'connector.' Devine is directed to a virtual machine monitor (VMM) that runs 'virtual machine' operating systems within the same computer. "Memory tracing" refers to a separation of the portions of the memory managed by the virtual machine and the portions of the memory managed by the VMM. There is no indication that the VMM of Devine is a device that can be connected or disconnected from a one computer and transferred to another.

The disconnection and connection of the device from one computer to another is set out in several places in the specification, as are descriptions of the connectors, including page 3,

lines 24-33. These clearly show that the term ‘connector’ is being misinterpreted by the Examiner and is not taught by the Devine reference.

*The Examiner is misinterpreting the term ‘computer.’*

The office action makes several statements as to how the term ‘computer’ is not defined. However, as discussed at several places in the specification such as page 4, lines 17-29, it is clear that the first computer and the second computer are separate physical devices. Further, examples of accessory devices that may function as the host computer are discussed at page 3, lines 18-23.

Regardless of the examples of being separate physical machines, the office action seems to state the position that an operating system and a computer are the same thing. See page 3 of the office action where it states, “...to a host computer (“host operating system” part of host computer, column 24, lines 29-31). This is obviously not true. An operating system is executed on a computer, but does not comprise the computer. Devine does not teach two different computers, but teaches two different operating systems operating on the same computer.

Additionally, Claim 11 recites, “transferring a data file containing necessary elements to emulate an operating system *from a first computer having an operating system* to be emulated *to a memory device...*” “disconnecting the memory device *from the first computer...*” and then, “*connecting the memory device to a host computer different from the first computer...*” Since the computer in Devine uses segmented memory, the operating system virtual machine does not transfer the data file at all, it always resides in the same area of memory, different from the other portions of memory where the other virtual machines exist, but the *data file is not transferred*.

Claim 15 recites “selecting an emulated operating system from multiple emulated operating systems available on the emulation device...” Again, there is no emulation device. The operating system may be selected from the main memory in Devine, but there is no

emulation device. Further, claim 15 recites, “the emulated operating system is that of a first computer different from the host computer...” As discussed above, different operating systems are not the same as different computers.

Also, the office action seems to be equating switching code upon which a processor is operating to being the same as connecting a memory device to a host computer that was disconnected from a first computer and accessing code from that device. As discussed previously, no disconnection or connection occurs in Devine, the memory is always connected, and just a different portion of the memory is accessed. See the discussion in Devine discussing the details of segmented processor operation at col. 13, line 11 through col. 14, line 67.

For at least the foregoing reasons, and those previously stated in the record of the case, Applicants respectfully submit that the prior art does not teach the invention as claimed. The Applicants also assert and incorporates herein all arguments made previously, whether or not explicitly discussed herein, to preserve the right to assert these arguments in the Appeal Brief.

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Respectfully submitted,

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